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Hays County Texas
Liz Q. Gonzalez
County Clerk

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Parties:

Direct- MAK FOSTER RANCH LP
Indirect-

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***** THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.



I hereby certify that this instrument was filed for record in my office on the date and
time stamped hereon and was recorded on the volume and page of the named records
of Hays County, Texas

A handwritten signature in cursive script that reads "Liz Q. Gonzalez".

Liz Q. Gonzalez, County Clerk

Exhibit A

Lots 1-23 (inclusive), Block A and Lots 1-26 (inclusive), Block B,
BELTERRA PHASE 2 SECTION 7, according to the map or plat thereof,
recorded in Volume 16, Page 278, Plat Records, Hays County, Texas.

After recording please return to:
Independence Title Company
9442 N. Capital of Texas Hwy., Bldg. 2, Ste. 200
Austin TX 78759

Restrictive Covenant Regarding Landscape Assessments

NOTICE OF ASSESSMENTS AND LIEN TO SECURE PAYMENT OF ASSESSMENTS

15/11/08/12/12 # 1207402 Com

THIS DOCUMENT CREATES CERTAIN OBLIGATIONS AN OWNER OF ANY LOT WILL BE REQUIRED TO PAY AND RESERVES A LIEN TO ASSURE PAYMENT OF SUCH SUMS.

DECLARATION OF RESTRICTIONS, COVENANTS, LIENS AND ASSESSMENTS

THE STATE OF TEXAS §
 §
COUNTY OF HAYS §

THIS DECLARATION OF RESTRICTIONS, COVENANTS, LIENS AND ASSESSMENTS (this "Declaration") is made and imposed effective June 7 2012, by MAK FOSTER RANCH, L.P. ("Declarant").

RECITALS:

- A. WHEREAS, Declarant owns the real property (the "Property") described on Exhibit A attached hereto, which is a part of a development called Belterra.
- B. WHEREAS, the Property is intended to be developed and used as a garden home type of development.
- C. WHEREAS, Declarant is selling the Property (the "Sale") and in connection therewith desires to create a means and manner for the care and preservation of the Property as a special portion of Belterra as stated herein.
- D. WHEREAS, the purchase agreement relating to the Sale contemplates the recording of this Declaration.
- E. WHEREAS, this Declaration is intended to supplement that certain Declaration of Covenants, Conditions and Restrictions of Belterra Community Association, as recorded among the land records of Hays County, Texas, as Document #03014643, in Book OPR, Vol. 2218, at pages 1-144.

NOW THEREFORE, Declarant declares that the Property will be held, sold and conveyed subject to the covenants, conditions, liens, assessments and terms declared below, which will be deemed to be covenants running with the land and imposed on and intended to benefit and burden each Lot (as hereinafter defined) and other portions of the Property in order to maintain within the Property a planned mutually preserved community of high standards. Such covenants will be binding on all parties having any right, title or interest therein or any part thereof, their respective heirs, personal

representatives, successors and assigns, and will inure to the benefit of each Owner (as hereinafter defined) thereof, Declarant and the Association (as hereinafter defined).

ARTICLE I DEFINITIONS

Section 1.1. "Association" will mean Belterra Homeowners Association, Inc., a Texas nonprofit corporation.

Section 1.2 "Builder" will mean any residential building entity acquiring Lots for the purpose of construction and sale of homes.

Section 1.3 "Declarant" will mean the Owner named above and its successors and assigns who are designated as such in writing by Declarant, and who consent in writing to assume the duties and obligations of the Declarant with respect to the Lots acquired by such successor or assign.

Section 1.4 "Declaration" will mean this Declaration of Covenants, Liens and Assessments, and any amendments and supplements thereto made in accordance with its terms.

Section 1.5 "Lot" will mean any of the plots of land indicated upon the recorded subdivision plat(s) of the Property or any part thereof creating single-family homesites, but only if the plot of land has in place an infrastructure (including utilities and streets) necessary to allow construction of a single-family home. Common Areas and areas deeded to a governmental authority or utility, together with all improvements thereon, shall not be included as part of a Lot.

Section 1.6 "Maintenance Areas" will mean all exterior lawn and landscape areas of a Lot (exclusive of buildings, driveways, sidewalks and similar areas), but expressly includes all yards and landscape areas, and all areas within the Property which do not constitute a Lot or roadway, including all detention, water quality, drainage, and other similar features located within the Property. THIS INCLUDES AREA THAT YOU MAY OWN AS A PART OF YOUR LOT.

Section 1.7 "Owner" will mean the record owner, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

Section 1.8 "Property" will mean the real property described on EXHIBIT A hereto.

Section 1.9 "Unit" will mean any residential dwelling situated upon any Lot.

ARTICLE II MAINTENANCE

Section 2.1 **Common Maintenance.** All Maintenance Areas within the Property shall be landscaped, mowed, repaired and maintained by the Association. The Association will determine and undertake a plan for Maintenance of all such areas. The Association shall determine the means, manner, style and plan for all lawn care and landscape and its maintenance. The association is authorized to enter into any one or more contracts as it desires for the performance of landscaping,

lawn care and other maintenance and work performed pursuant to this Declaration. The Board of Directors, on behalf of the Association, will have full power and authority to contract with any Owner or other person or entity for the performance by the Association of services which the Board of Directors is not otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board of Directors may deem proper, advisable and in the best interest of the Association. Without limiting the foregoing, the Board shall have the authority to hire a management company or entity to undertake and oversee the management of the Association and Common Areas and the collection, imposition and use of all assessments and fees; and the Board shall have the right to grant such entity such management, operational, collection and enforcement rights and duties as the Board shall desire.

Section 2.2 Restrictions. No yard areas outside of any Unit shall be changed, altered or used by any Owner, including the planting of any plants, lawns or landscaping. The Association may allow some flower or similar plantings, but may establish such rules and limitations as it desires.

ARTICLE III FUNDING AND ASSESSMENTS

Section 2.1 Funding. Each Owner of any Lot by acceptance of a deed therefor, whether or not it will be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: a special assessment for work performed and costs incurred in connection with the Maintenance undertaken pursuant to this Declaration. Such assessments to be established and collected as hereinafter provided. Such assessments will remain effective for the full term (and extended term, if applicable) of the covenants contained herein. The assessments, together with late fees, interest, costs, and reasonable attorneys' fees, will be a charge on each Lot and will be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, will also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due and subsequent Owners of the Lot. The Declarant shall have no obligation to pay any assessments on Lots owned by Declarant. NOTE THESE ASSESSMENTS ARE SPECIAL TO THIS PROPERTY AND ARE IN ADDITION TO ANY OTHER ASSESSMENTS IMPOSED BY OR THROUGH THE ASSOCIATION OR OTHER RESTRICTIVE COVENANTS OR DECLARATIONS.

Section 2.2 Assessment or Charge. Assessments and charges shall be determined and made in accordance with the following provisions:

- (a) Assessment Rate. The assessments hereunder shall be fixed at a uniform rate for all Lots except that a Lot owned by Declarant shall be assessed at \$1.00 per Lot per year. The rate at which each Lot will be assessed, and whether such assessment will be payable monthly, quarterly or annually, will be determined by the Board of Directors of the Association (the "Board of Directors"), at least 30 days in advance of each assessment period. Said rate may be adjusted as provided by the Board of Directors, subject to the provisions herein. The assessments will be based on the costs of goods, services and work and costs incurred by the Association in collecting and managing such assessments and work. The initial assessment is anticipated to be between \$100.00 and \$200.00 per month per Lot, but may vary depending on

the actual costs involved. The Association's determination of such costs and assessments is final.

(b) **Increases in Assessments.** The assessment may be increased as necessary to assure that the Lots bear the full costs of such work, materials and expenses.

(c) **Certificate of Assessment Status.** The Association will, upon written demand and for a reasonable charge, furnish a certificate signed by an officer or authorized representative of the Association setting forth whether or not the assessment has been paid for the assessment period.

(d) **Purposes of Assessment Fund.** The Association will establish an assessment fund composed of assessments described herein and will use the proceeds of such fund in providing for normal, recurring expenses related to the Maintenance Areas or that are set forth in the Association's budget for such items. Such uses and benefits to be provided by the Association may include, by way of clarification and not limitation, any and all of the following: normal, recurring maintenance of the Maintenance Areas (including, but not limited to, mowing, edging, watering, clipping, sweeping, pruning, raking, and otherwise caring for landscaping) and the improvements to such Maintenance Areas, such as sprinkler systems, payment of all legal and other expenses incurred in connection with the enforcement of all recorded covenants, restrictions and conditions affecting the property to which the assessment fund applies; payment of all reasonable and necessary expenses in connection with the collection and administration of the assessment; employment of parties to perform any such work; and doing any other thing or things necessary or desirable in the opinion of the Board of Directors of the Association to keep the Property neat and in good order, or which is considered of general benefit to the Owners or occupants of the Property, it being understood that the judgment of the Board of Directors in the expenditure of said funds and the determination of what constitutes normal, recurring maintenance will be final and conclusive so long as such judgment is exercised in good faith. The Association will, in addition, establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Maintenance Areas. The fund will be established and maintained out of assessments. If the Association determines that any capital expenditures are necessary, the Association may create such additional or special assessments as it deems necessary or desirable.

(e) **Late Fee.** If any assessment is not paid when due, the Association may charge a late fee for each month delinquency of such fee. The fee shall be in such amount as the Association shall determine from time to time. The initial late fee shall be \$20.00 per month.

Section 2.3 Non-payment of Assessments; Remedies of the Association. Any assessment not paid within 10 days after the due date will bear interest from the due date at the highest rate of interest allowed by Texas law, as amended from time to time. The Association will have the authority to impose late charges to compensate for the administrative and processing costs of late payments on such terms as it may establish by duly adopted resolutions, and the Association may bring an action at law against the Owner personally obligated to pay the same. No Owner may waive or otherwise

escape liability for the assessments provided for herein by non-use of the Maintenance Area or abandonment of his property.

Section 2.4 Subordinated Lien to Secure Payment. To secure the payment of any assessment established hereby and to be levied on individual Lots as above provided, there is hereby reserved a lien for the benefit of the Association, said lien to be enforceable through appropriate proceedings at law or in equity by such beneficiary, including to the extent allowed by law through non-judicial foreclosure; provided, however, that each such lien shall be specifically made secondary, subordinate and inferior to all liens, present and future, given, granted, and created by or at the instance and request of the Owner of any such Lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the improvement of any such Lot. Sale or transfer of a Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure will extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale, foreclosure or transfer will relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. The Association will have the right to file notices of liens in favor of such Association in the Real Property Records of Hays County, Texas.

Section 2.5 Controlling Provisions. There is hereby adopted the following guidelines to establish an alternative payment schedule by which an Owner may make partial payments to the Association for delinquent regular or special assessments or any other amount owed to the Association:

- (a) The minimum term for a payment plan offered by the Association shall be three months, provided upon proof of financial hardship, such term may be extended to six months. A payment plan will provide for simple interest not to exceed ten percent per annum. If the plan is required to be managed by a third party management company, unless prohibited by law, a charge may be made by the Association to monitor the plan and payments.
- (b) The Owner must make written application to the Association requesting a payment plan within thirty (30) days from the date the payment is due for the payment for which a payment plan is requested.
- (c) Requests for a payment plan for any payment which has not been previously subject to a payment plan shall be granted if the request is a first time request for that Owner. Requests for a payment plan for any payment which has previously been subject to a payment plan may be granted if the Association finds that a financial hardship exists. Requests for a payment plan for any payment by an Owner for a second or additional payment plan for that Owner may be granted if the Association finds that a financial hardship exists.
- (d) The Owner requesting a payment plan shall provide such information as the Association shall reasonably request.
- (e) The Association is not required to enter into a payment plan with an Owner who failed to honor the terms of a previous payment plan during the two years following the owner's default under the previous payment plan.

(f) No monetary penalties shall accrue during the period an Owner is complying with a payment plan granted under this provision. For purposes of this provision, monetary penalties do not include reasonable costs associated with administering the payment plan or interest.

Except as provided by below, a payment received by the Association from an Owner shall be applied to the Owner's debt in the following order of priority: (1) any delinquent assessment; (2) any current assessment; (3) any attorney's fees or third party collection costs incurred by the Association associated solely with assessments or any other charge that could provide the basis for foreclosure; (4) any attorney's fees incurred by the Association that are not subject to (3) above; (5) any fines assessed by the Association; and (6) any other amount owed to the Association. If, at the time the Association receives a payment from an Owner, the Owner is in default under a payment plan entered into with the Association: (1) the Association is not required to apply the payment in the order of priority specified ABOVE; and (2) in applying the payment, a fine assessed by the association may not be given priority over any other amount owed to the association.

PREREQUISITES TO FORECLOSURE: NOTICE AND OPPORTUNITY TO CURE FOR CERTAIN OTHER LIENHOLDERS. (a) Unless authorized or allowed by law, the Association may not foreclose an assessment lien on real property by giving notice of sale under Section 51.002 or commencing a judicial foreclosure action unless the Association has: (1) provided written notice of the total amount of the delinquency giving rise to the foreclosure to any other holder of a lien of record on the property whose lien is inferior or subordinate to the association's lien and is evidenced by a deed of trust; and (2) provided the recipient of the notice an opportunity to cure the delinquency before the 61st day after the date the recipient receives the notice. Notice under this section must be sent by certified mail, return receipt requested, to the address for the lienholder shown in the deed records relating to the property that is subject to the Association assessment lien.

JUDICIAL REQUIREMENTS. As and to the extent required by Subsection 209.009 of the Texas Property Code (a) except as provided and subject to Section 209.009, the Association may not foreclose an assessment lien unless the Association first obtains a court order in an application for expedited foreclosure under the rules adopted by the Supreme Court under Subsection (b) of Section 209.009 of the Texas Property Code. The Association may use the procedure described under the Texas Property Code to foreclose any lien described by the Association's dedicatory instruments. Expedited foreclosure is not required under this section if the owner of the property that is subject to foreclosure agrees in writing at the time the foreclosure is sought to waive expedited foreclosure under this section. A waiver under this subsection may not be required as a condition of the transfer of title to real property.

REMOVAL OR ADOPTION OF FORECLOSURE AUTHORITY. A provision granting a right to foreclose a lien on real property for unpaid amounts due to the

Association may be removed by a vote of at least 67 percent of the total votes allocated to property owners in the property owners' association. Owners holding at least 10 percent of all voting interests in the Association may petition the Association and require a special meeting to be called for the purposes of taking a vote for the purposes of this section.

ASSESSMENT LIEN FILING. A lien, lien affidavit, or other instrument evidencing the nonpayment of assessments or other charges owed to a property owners' association and filed in the official public records of a county is a legal instrument affecting title to real property.

ARTICLE IV EASEMENTS

Section 3.1 Entry Easement. The Association and its agents and contractors will have the right to enter upon any Lot to perform such work, maintenance and operation of the Property. Entry upon the Lot as provided herein will not be deemed a trespass, and the Association will not be liable for any damage so created.

ARTICLE IV RESTRICTIONS

Section 4.1 Square Footages. Subject to any different requirements set forth in a specific purchase and sale agreement, the following minimum and maximum space square footage requirements are in effect for 55' lots: no less than 1700 square feet and no more than 2800 square feet. For purpose of this guideline, the square footage requirement is square footage of finished space (exclusive of basements, garages and unfinished attic areas) and specified lot widths are on-street lot frontages.

ARTICLE V GENERAL

Section 5.1 Enforcement. The Association or any Owner will have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges imposed now or in the future by the provisions of this Declaration. Failure of the Association or any Owner to enforce any covenant or restriction of this Declaration will in no event be deemed a waiver of the right to do so in the future.

Section 5.2 Remedies. In the event of any default by any Owner under the provisions of this Declaration, the Association and any Owner will have each and all of the rights and remedies which may be provided for in this Declaration, and those which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or injunction, or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. No remedies herein provided or available at law or in equity will be

deemed mutually exclusive of any other such remedy. All expenses of the Association in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the maximum rate permitted by law but, with reference to any Lots financed by FHA insured loans, not in excess of the maximum rate of FHA loans at the time of delinquency, from the due date until paid, will be charged to and assessed against such defaulting Owner, and will be added to and deemed part of his respective regular assessment (to the same extent as the lien provided herein for unpaid assessments) upon the Lot and upon all of his additions and improvements thereto, and upon all of his personal property upon the Lot. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or any Owner.

Section 5.3 Term and Amendments. The covenants and restrictions of this Declaration will run with and bind the land for a term of 30 years from the date this Declaration is recorded, after which time they will be automatically extended for successive periods of 10 years each, unless 75% of the votes outstanding will have voted to terminate the covenants and restrictions of this Declaration upon the expiration of the initial 30-year period or any extension thereof, which termination will be by written instrument signed by 75% of the Owners and properly recorded in Travis County, Texas. This Declaration may be amended during the first 30-year period by an instrument signed by not less than 66.67% of the Owners and by the Declarant, except as provided below. Any amendment must be recorded. Notwithstanding any provisions hereof to the contrary, the Declarant may, at its sole discretion and without consent being required of any other party, modify, amend or repeal this Declaration (i) at any time prior to the closing of the sale of the first Lot covered hereunder, provided said amendment, modification or repeal is in writing and properly recorded in Travis County, Texas, and (ii) at any time to cause these declarations, covenants and restrictions to meet HUD, FHA and/or VA requirements for qualified subdivisions. Declarant further reserves, (a) prior to the closing of the sales of all of the Property, all rights which may be necessary to deal with the Property, including the right to vacate, amend or modify the Plat of the Property, and (b) the right at any time to amend this Declaration in order to correct scrivener's errors. Amendments will be subject to prior approval by FHA and VA if any Lot covered hereunder is encumbered by an FHA or VA mortgage loan.

Section 5.4 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order will in no way affect any other provisions which will remain, in full force and effect.

Section 5.5 Rights and Obligations. The provisions of this Declaration and the Articles of Incorporation and By-laws and the rights and obligations established thereby will be deemed to be covenants running with the land and will inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees. By the recording or the acceptance of a deed conveying a Lot or any ownership interest in the Lot whatsoever, the person to whom such Lot or interest is conveyed will be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration and the Articles of Incorporation and By-laws, whether or not mention thereof is made in said deed.

Section 5.6 Gender. All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, will include all other genders, and the singular will include the plural, and vice versa.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed on its behalf, attested and its corporate seal to be hereunto affixed as of the day and year first above written.

EXECUTED this the 7 day of June, 2012.

DECLARANT:

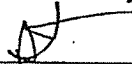
MAK FOSTER RANCH, L.P.,
a Delaware limited partnership

By: MAKFR, INC.,
a Delaware corporation,
its General Partner

By: Makallon Austin, LLC,
a Delaware limited liability company,
its Sole Shareholder

By: FRE Ventures Manager, L.L.C.,
a Delaware limited liability company,
its Managing Member

By: Farallon Capital Management, L.L.C.,
a Delaware limited liability company,
its Manager

By: 
Name: Daniel J. Hirsch
Title: Managing Member

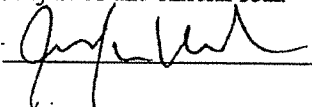
STATE OF CALIFORNIA)

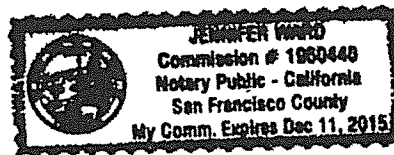
COUNTY OF San Francisco)

On June 7, 2012, before me, Jennifer Ward, a Notary Public, personally appeared Daniel J. Hirsch, Managing Member of FARALLON CAPITAL MANAGEMENT, L.L.C., a Delaware limited liability company, as Manager of FRE VENTURES MANAGER, L.L.C., a Delaware limited liability company, as Managing Member of MAKALLON AUSTIN, LLC, a Delaware limited liability company, as Sole Shareholder of MAKFR, INC., a Delaware Corporation, as General Partner of MAK FOSTER RANCH, L.P., a Delaware limited partnership on behalf of said companies, corporation and partnership who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature:  (Seal)



Section 5.7 **Headings.** The headings contained in this Declaration are for reference purposes only and will not in any way affect the meaning or interpretation of this Declaration.

Section 5.8 **Conflicts.** In the event of conflict between the terms of this Declaration and any By-laws, rules, regulations or Articles of Incorporation of the Association, this Declaration will control.

Section 5.9 **Partial Invalidity.** The invalidation of any one of these covenants by judgment or court order will in no way affect any of the other provisions, which will remain in full force and effect.

[Remainder of page intentionally left blank; Signature page follows.]